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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Norbert Diekhans

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HUSCH BLACKWELL SANDERS LLP

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SUITE 600

ST. LOUIS, MO 63105-3441

EXAMINER

TORRES, ALICIA M

ART UNIT

PAPER NUMBER

3671

MAIL DATE

DELIVERY MODE

05/27/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/640,126	Applicant(s) DIEKHANS, NORBERT	
	Examiner ALICIA M. TORRES	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28 is/are allowed.
- 6) ☒ Claim(s) 18, 19, 24, 26 and 27 is/are rejected.
- 7) ☒ Claim(s) 20-23 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear which parts are included in the "crop cleaning mechanism". The "crop cleaning mechanism" is referred to in line 8, however, it appears by the structure of the claim that the sensor is also included in the crop cleaning mechanism. In fact, it appears that the entire body of the claim comprises the "crop cleaning mechanism". So it is unclear how the sensor senses a load on the crop cleaning mechanism if it is included in the crop cleaning mechanism.
3. Claim 18 recites the limitation "said processor" in line 14. There is insufficient antecedent basis for this limitation in the claim. For purposes of examination, "said processor" is taken to be the controller.
4. Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear which parts are included in the "crop cleaning mechanism". The "crop cleaning mechanism" is referred to in line 8, however, it appears by the structure of the claim that the sensor is also included in the crop cleaning mechanism. In fact, it appears that the entire body of the claim comprises the "crop cleaning mechanism". So it is unclear how the sensor senses a load on the crop cleaning mechanism if it is included in the crop cleaning mechanism.

Art Unit: 3671

5. Claim 28 recites the limitation "said processor" in line 14. There is insufficient antecedent basis for this limitation in the claim. For purposes of examination, "said processor" is taken to be the controller.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 18, 19, 24 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Buermann 6,585,584.

Buermann discloses a controlled crop cleaning mechanism for a harvester such as a combine, said mechanism comprising:

A first and second sieve (40, 42), each sieve having a plurality of openings (between blades 44), each of said openings being adjustable between a narrower position and a wider position;

a fan (30), said fan being disposed to blow air through said openings of said sieve (40, 42) sufficient to separate crop from chaff, said fan being adjustable between a faster and a slower speed;

Art Unit: 3671

a sensor (see column 5, line 66- column 6, line 19), said sensor sensing a load (operating current) on said crop cleaning mechanism (motor driving the adjustment of blades 44), said sensing being independent of said air blown by said fan (30);

a controller (unnumbered, see column 6, lines 1, 2), said controller being in operative communication with said sensor to receive a signal corresponding to a load sensed (motor operating current) and said controller being in operative communication with an adjustor (54) of said openings, said controller being configured to widen said openings when said sensed load increases and to narrow said openings when said sensed load decreases, said processor being further configured such that said widening and said narrowing is directly responsive to said sensed load and exclusive of any effect of said air blown by said fan (30);

wherein said widening and said narrowing is exclusively responsive to said sensed load (operating current of adjustment motor);

wherein the widening or said narrowing of the openings is delayed in time (inherent, also see column 6, line 13) from a receipt of a signal indicating a change in the sensed load.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buermann.

Art Unit: 3671

Buermann discloses the mechanism as applied above. Buermann further disclose wherein the controller is directly responsive to the sensed load. However, Buermann fails to disclose the sensed load being a combination of signals from a plurality of sensors.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the plurality of sensors since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Response to Arguments

10. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

11. Claims 20-23 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 28 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Friday from 7:00 a.m. – 4:30 p.m.

Art Unit: 3671

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 571-272-3600. The fax number for this Group is 571-273-8300.

/Alicia M Torres/
Primary Examiner, Art Unit 3671

May 25, 2009